

11

UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN -- SOUTHERN DIVISION

KARA SZCZOMAK  
Plaintiff

-VS-

Case: 2:07-cv-11931  
Assigned To: Cleland, Robert H  
Referral Judge: Komives, Paul J  
Filed: 05-03-2007 At 09:38 AM  
CMP SZCZOMAK V. OMNI CREDIT SERVICE  
S OF FLORIDA, INC., ET AL (TAM)

**DEMAND FOR JURY TRIAL**

OMNI CREDIT SERVICES OF FLORIDA, INC,  
MELANIE DOE,  
Defendant

Ian B. Lyngklip (P47173)  
Lyngklip & Taub Consumer Law Group, PLC  
Attorney For Kara Szczomak  
24500 Northwestern Highway, Ste. 206  
Southfield, MI 48075  
(248) 746-3790

**COMPLAINT & JURY DEMAND**

*Kara Szczomak states the following claims for relief:*

**Jurisdiction**

1. This court has jurisdiction under the FDCPA, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

**Parties**

3. The Plaintiff to this lawsuit is Kara Szczomak who resides in Shelby Twp, MI 48315.

4. The Defendants to this lawsuit are as follows:
  - a. Omni Credit Services of Florida, Inc ("Omni Credit") which is a corporation doing business in Michigan and residing at PO BOx 23381, Tampa, FL 22623.
  - b. Melanic Doe ("Melanie") who is a natural person who at all times relevant to this complaint was an agent and debt collector of Omni Credit.

**Venue**

5. The transactions and occurrences which give rise to this action occurred in Oakland County.
6. Venue is proper in the Eastern District of Michigan.

**General Allegations**

7. Some time prior to March 15, 2007, Omni Credit was engaged by Macys to collect a debt allegedly owed by Kara Szczomak.
8. The debt in question related to a Macys account opened by Ms. Szczomak's mother in or around calendar year 2002.
9. The account is in default, and was discharged by Ms. Szczomak's mother in bankruptcy.
10. At the time the account was opened, Ms. Szczomak's mother named Ms. Szczomak as an authorized user on the account.
11. Ms. Szczomak never signed to open the account.

12. Ms. Szczomak never agreed to be responsible for the account or the charges of her mother in relation to the account.
13. No one ever sent Ms. Szczomak Truth in Lending Act disclosures relating to the account.
14. At the time the account was opened, Ms. Szczomak was a minor and did not have the legal capacity to enter into any agreement for the account.
15. Ms. Szczomak never received a charge plate for the account.
16. Ms. Szczomak has not used the account since 2005 at which time she had requested removal as an authorized user (a request which was declined by the account holder).
17. None of the charges on the account were attributable to charges by Ms. Szczomak.
18. Simply put, Ms. Szczomak does not owe the money that Omni Credit and Melanie sought to collect from her.
19. Ms. Szczomak never benefitted from the use of the account in relation to the current charges sought by Macys and Omni Credit.
20. For the past four years, Ms. Szczomak has been a student at Western Michigan University, living on campus and community home.
21. Ms. Szczomak is preparing to graduate with a Bachelor's degree and hopes to go on to medical school to become a Physician Assistant following the Graduate Records Exam.
22. In 2006, Ms. Szczomak's mother filed for bankruptcy.

23. Shortly thereafter, Macy's began to send statements in Ms. Szczomak's name only to her parents home.
24. Ms. Szczomak disputed these statements to Macys and informed Macys that she did not open the account or agree to pay for it.
25. After billing her for four months, Macys turned the matter over to Omni Credit sometime around February or March of 2007.
26. On March 15, 2007, Omni sent an initial communication to Ms. Szczomak regarding the debt.
27. Almost immediately following the letter, Melanie began almost daily calls to Ms. Szczomak's cell phone.
28. During these calls Melanie would verbally abuse, demean, and mock Ms. Szczomak.
29. Melanie specifically threatened to destroy Ms. Szczomak's credit history.
30. In repeated conversations, Ms. Szczomak advised Melanie that she did not owe the debt, that the account was her mothers, that the account had been discharged in bankruptcy, that she had not opened the account, and that she had good credit.
31. In these conversations, Ms. Szczomak repeatedly placed Omni Credit and Melanie on notice that the debt was not owed and all the information which they had about her was inaccurate.
32. Melanie regularly dismissed these disputes and regularly shouted over Ms. Szczomak in such a way as to convey that she was not listening to the disputes.

33. Eventually, Melanie responded "good luck with that" and advised Ms. Szczomak to attempt to obtain credit so as to find out how her credit had been effected by Omni Credit.
34. Ms. Szczomak did just that and learned that she was no long credit worthy as a direct result of the actions of Omni Credit.
35. Additionally, when Ms. Szczomak attempted to assert her rights under the Fair Debt Collection Practices Act, Melanie demeaned those efforts and informed her that she would continue with her current course of action, unabated and undeterred.
36. Omni Credit and Melanie have continued to repeatedly call Ms. Szczomak on her cell phone and leave automated messages.
37. Omni Credit and Melanie have continued to post false information on her credit report.
38. Omni Credit and Melanie have continued to collect money that Ms. Szczomak does not owe.
39. Simply put, Ms. Szczomak notified Omni Credit and Melanie that she didn't owe the money, but they refused to believe her or stop collecting.
40. Also, as a result of Omni Credit's activities, Ms. Szczomak was denied student loans which may forestall her ability to begin her medical training, and which may artificially trigger the due date for her student loans, loans which she can ill afford to pay if she does not complete her education.

41. In order to simply complete her current year of education, Ms. Szczomak has had to rely on family instead of student loans to complete her studies.
42. Melanie repeatedly demeaned Ms. Szczomak based upon her mother's bankruptcy, and taunted her about the fact that her mother had left her to pay the debt after having evaded payment herself.
43. Melanie repeatedly and left the same automated message, time and time again.
44. As a direct result of these collection efforts by Omni Credit and Melanie, Ms. Szczomak has suffered from uncontrollable crying, vomiting, and panic attacks.
45. Ms. Szczomak suffers from epilepsy, a condition which can cause grand mal seizures when she is placed under increased stress.
46. These seizures are signaled for Ms. Szczomak by flashing lights.
47. As a result of these collection efforts, Ms. Szczomak has increasingly seen the warning signs of an impending seizure, doubly compounding her stress.
48. As a result of these collection efforts, Ms. Szczomak has had to increase her epilepsy medication which causes loss of energy, concentration, and numbness in her body.
49. Omni Credit and Melanie have abused and harassed Ms. Szczomak.
50. Omni Credit and Melanie have treated Ms. Szczomak unfairly and deceptively in relation to the debt and Ms. Szczomak's liability for it.
51. Omni Credit and Melanie have made misleading representations to Ms. Szczomak regarding the debt and her liability for it.

**COUNT I – Fair Debt Collection Practices Act (Omni Credit and Melanie)**

- 52. Ms. Szczomak incorporates the preceding allegations by reference.
- 53. At all relevant times Omni Credit – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
- 54. At all relevant times Melanie – in the ordinary course of her business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
- 55. Omni Credit is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
- 56. Melanie is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
- 57. Omni Credit has violated the FDCPA.
- 58. Ms. Szczomak has suffered damages as a result of Omni Credit's violations of the FDCPA.

**COUNT II – Michigan Occupational Code (Omni Credit) as alternative to claims under the Michigan Collection Practices Act**

- 59. Ms. Szczomak incorporates the preceding allegations by reference.
- 60. Omni Credit is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).
- 61. Ms. Szczomak is a debtor as that term is defined in M.C.L. § 339.901(f).
- 62. Omni Credit has violated the MOC.
- 63. Ms. Szczomak has suffered damages as a result of Omni Credit's violations of the

Michigan Occupational Code.

64. Omni Credit's violations of the Michigan Occupational Code were willful.

**COUNT III – Michigan Debt Collection Practices Act (Omni Credit) as alternative to claims under the Michigan Occupational Code**

65. Ms. Szczomak incorporates the preceding allegations by reference.

66. Omni Credit is a "regulated person" under the Michigan Collection Practices Act ("MDCPA"), M.C.L. § 445.251(g)(xi).

67. Omni Credit has violated the MCPA

68. Ms. Szczomak has suffered damages as a result of Omni Credit's violations of the MCPA.

69. Omni Credit's violations of the Michigan Collection Practices Act were willful.

**Demand for Jury Trial**

70. Plaintiff demands trial by jury in this action.

**Demand For Judgment for Relief**

71. *Accordingly, Ms. Szczomak requests that the Court grant:*

- a. Equitable relief under statute and common law, in the form of a declaration that the amount sought by Defendant is not actually owed and an injunction prohibiting further collection of those amounts.*
- b. Actual damages.*
- c. Statutory damages.*
- d. Treble damages.*



e. *Statutory costs and attorney fees.*

Respectfully Submitted,

LYNGKLIP & TAUB  
CONSUMER LAW GROUP, PLC

By: 

Ian B. Lyngklip (248) 746-3790

Attorney For Kara Szczomak

24500 Northwestern Highway, Ste. 206

Southfield, MI 48075

(248) 746-3790

ILyngklip@Pop.Net

Dated: May 2, 2007

(Rev. 11/04)

**CIVIL COVER SHEET** County in which this action arose MACOMB

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**ORIGINAL****I. (a) PLAINTIFFS**

KARA SZCZOMAK

(b) County of Residence of First Listed Plaintiff MACOMB  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Lyngklip & Taub Consumer Law Group, PLC.  
24500 Northwestern Highway - Ste 206, Southfield, MI 48075-2406  
(248) 746-3790

**DEFENDANTS**

OMNI CREDIT SERVICES OF FLORIDA, INC., MELANIE DOE

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Select One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Select One Box for Plaintiff and One Box for Defendant)

Citizen: Case: 2:07-cv-11931  
Assigned To: Cleland, Robert H  
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**IV. NATURE OF SUIT** (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 495 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (Select One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 usc 1692k(d) and 28 USC 1331,1337

Brief description of cause:

Omni Credit Services of Florida, Inc. is in violation of Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5/7/07

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

PURSUANT TO LOCAL RULE 83.11

ORIGINAL

Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

\_\_\_\_\_

\_\_\_\_\_